REMARKS/ARGUMENTS

Applicants' Election

In response to the group restriction requirement, Applicants elect, with traverse, the claims of Group I (i.e., claims 1 and 6-22) and the specific combination of (i) a first PTAA of carcinoembryonic antigen (CEA) and (ii) a second PTAA of mucin (MUC).

In response to the requirement for species election, Applicants elect, with traverse, the following:

Species (i) – an orthopox virus vector as recited in claim 7;

Species (ii) – MUC-1 as recited in claim 12;

Species (iii) – MVA as recited in claim 20; and

Species (iv) – MUC-1 as recited in claim 24.

All of the claims of elected Group I read on the elected Species (i)-(iii). Applicants note that only claims 23-25 of non-elected Group III read on the elected Species (iv); however, a species selection of Species (iv) was included for the sake of completeness.

Reconsideration of the group and species restriction requirements is hereby requested.

Discussion of the Restriction Requirement

The subject application is a U.S. national stage application based on the international application PCT/US04/038643. The Office alleges that the inventions defined by the claims of Groups I-VIII do not relate to a single general inventive concept under PCT Rule 13.2 because they lack the same "special technical features." Under PCT Rule 13.2, a group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature. PCT Rule 13.2 defines the term "special technical features" as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art (see M.P.E.P. § 1893.03(d)).

The Examiner contends that he claims encompass multiple products and methods, which are bound by the special technical feature of a MUC-1 polypeptide encoded by a

nucleic acid molecule; however, the Examiner notes that this technical feature is known in the art. Therefore, the Examiner requires that Applicants elect a particular invention for subsequent prosecution.

Applicants believe that the subject matter of the claims of at least Groups I and II are linked so as to form a single general inventive concept. In other words, the claims of Groups I and II share a common special technical feature, which defines the contribution that each claim makes over the prior art. In this respect, the claims of Groups I and II are directed to a method for inducing an immunological response comprising administering to an individual with malignant pancreatic cells or at risk for developing a pancreatic tumor (i) a first vector encoding a PTAA and (ii) subsequently administering a second vector encoding a PTAA.

Given the special technical feature common to the claims of Groups I and II, a search for prior art with respect to either Group I or Group II would likely uncover references that would be considered by the Examiner during the examination of the other group. As a result, the Examiner would incur no undue burden in examining the claims of both Group I and Group II at the same time. See also M.P.E.P. § 803 ("If the search and examination of an entire application can be made without serious burden, the examiner *must* examine it on the merits, even though it includes claims to independent or distinct inventions." (emphasis added)). Indeed, Applicants note the claims of Group II depend from (and, therefore, include all the limitations of) claim 1 of Group I.

Similarly, in view of the nature of the subject matter defined by the pending claims, the election of species requirements are inappropriate. In any event, consistent with an election of species requirement, other species within the elected "genus" should be considered by the Examiner upon an indication of allowable subject matter with respect to the elected species.

Accordingly, Applicants respectfully request that the Examiner withdraw the group (at least as they pertain to Groups I and II) and species restriction requirements issued against the pending claims.

Conclusion

If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned agent.

Respectfully submitted,

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